

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:23-cv-00886-MR**

MONTAVIUS ANTOINE JOHNSON,)
)
 Petitioner,)
)
 vs.)
)
 PAZAVAR PRIEST, Acting Warden,)
)
 Respondent.)
 _____)

**MEMORANDUM OF
DECISION AND ORDER**

THIS MATTER is before the Court on the Petitioner's *pro se* Motion for Certificate of Appealability [Doc. 7].

The Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 in this Court on January 2, 2024. [Doc. 1]. The Court entered an Order on February 7, 2024, dismissing the petition as untimely filed, procedurally barred for failure to exhaust his available state remedies, and successive. [Doc. 5]. In that Order, the Court also declined to grant the Petitioner a certificate of appealability pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases. [Id.].

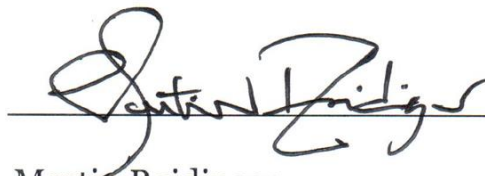
The Petitioner now moves this Court to issue a certificate of appealability. [Doc. 7]. In doing so, the Petitioner reiterates the arguments set forth in his § 2254 petition. [Id.].

As the Court has previously advised the Petitioner, a certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2); see Rule 11(a), Rules Governing Section 2254 Cases. A petitioner must show that reasonable jurists could debate whether the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further. See Miller-El v. Cockrell, 537 U.S. 322, 338 (2003); Slack v. McDaniel, 529 U.S. 473, 483-84 (2000). The Court has already set forth its reasoning for the dismissal of the Petition for Writ of Habeas Corpus and explained why it declined to issue a certificate of appealability. [Doc. 5]. The Petitioner sets forth no new arguments to convince the Court that it should reconsider its prior Order and now issue a certificate of appealability.

IT IS, THEREFORE, ORDERED that the Petitioner's Motion for Certificate of Appealability [Doc. 7] is **DENIED**.

IT IS SO ORDERED.

Signed: April 29, 2024



Martin Reidinger
Chief United States District Judge

